IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6953 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KANTILAL PRATAPJI SONI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6953 of 2001

MR CL SONI for Petitioner No. 1

MR D.P. JOSHI, AGP for Respondent State

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 10/01/2002

ORAL JUDGEMENT

The petitioner came to be detained by virtue of an order dated 2nd June, 2001 passed by the District Magistrate,

Banaskantha at Palanpur in exercise of power under Section 3 of the PASA Act. The petitioner seeks to challenge the said order by this petition under Article 226 of the of Constitution of India.

2. The grounds of detention indicate that the petitioner has been branded as a boot-legger. The detaining authority has considered one offence registered against the petitioner under the Bombay Prohibition Act, with Dhanera Police Station. No other offence is registered against the detenu and there are no statements or any other material to indicate involvement of the detenu in boot-legging. The detaining authority recorded a satisfaction that the petitioner is required to be immediately prevented from pursuing his illegal activities which are detrimental to public health and public order and resorting to less drastic remedy under ordinary law is not possible as immediate prevention is necessary and therefore, passed the order in exercise of powers under Section 3 of the PASA Act.

3. Learned Advocate Mr. Soni appearing for the petitioner submitted that the petitioner stays at Sanchor in Rajasthan; only one case is registered against him, which is considered by the detaining authority; there is total absence of any material to indicate that the petitioner is regularly dealing in liquor in different parts of the State and that he is a known bootlegger and therefore, the satisfaction recorded by the detaining authority is without basis and would therefore vitiate and the order may there be quashed.

4. Learned AGP Mr. D.P. Joshi has opposed this petition.

5. Having regard to the contention raised before this Court, it is amply clear and undisputed that there is no material except the registered offence under Bombay Prohibition Act against the detenu to indicate that he is trading in liquor at different places repeatedly and that he is a known bootlegger. The order is passed on the basis of the satisfaction recorded by the authority in the grounds of detention that the detenu is regularly supplying liquor at different places in Gujarat and has become known as a bootlegger and that he is therefore required to be detained under PASA in order to prevent him from pursuing his activities. This satisfaction is without any basis. The order therefore would stand vitiat. The petition therefore deserves to be allowed.

6. The petition is therefore, allowed. Order of detention dated 2.6.2001 passed by the respondent No.2 is quashed and set aside. Detenu Kantilal Pratapji Soni be released from detention forthwith, if not required in any other case. Rule made absolute. No costs. Direct service permitted.

(A.L.Dave,J.)

*/Mohandas